

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DUSA PHARMACEUTICALS, INC.,
a New Jersey corporation; and
QUEEN'S UNIVERSITY AT
KINGSTON, a Canadian academic
organization,

Plaintiffs,

v.

NEW ENGLAND COMPOUNDING
PHARMACY, INC., a Massachusetts
corporation,

Defendant.

Civil Action No. 04-12703-NMG

[JURY TRIAL DEMANDED]

**PLAINTIFFS' OPPOSITION TO DEFENDANT'S
MOTION FOR A SECOND EXTENSION OF TIME**

Plaintiffs DUSA Pharmaceuticals, Inc. and Queen's University at Kingston oppose Defendant New England Compounding Pharmacy, Inc.'s ("NECP") Motion for a Second Extension of Time to Plead or Otherwise Move in Response to Complaint ("Motion"). NECP has had more than ample time to plead or otherwise move.

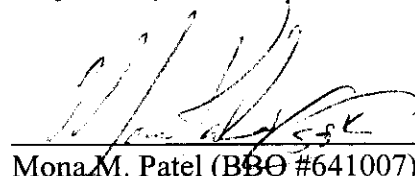
Plaintiffs agreed to a first thirty-day extension of time to NECP, giving it a total of 50 days within which to plead or otherwise move in response to the Complaint. NECP waited until the fortieth day after the Complaint was served (February 7, 2005), to proffer an unacceptable settlement proposal. Plaintiffs communicated to NECP on the forty-ninth day (February 16, 2005) that the proposal was not acceptable. The instant Motion was filed the same day.

In the interim, NECP has continued its infringing activities, and also began the additional infringing activity of sending unsolicited samples of its aminolevulinic acid product to doctors for use as claimed in the patents-in-suit.

No meaningful settlement discussions have taken place in this case, and NECP appears to be marking time. Meanwhile, Plaintiff's patent rights are violated every day. Plaintiffs are ready to prosecute this case and no further delays are in order.

For these reasons, this Court should deny the Motion and enter default judgment in favor of the Plaintiffs or, in the alternative, order NECP to file an answer or other responsive pleading to the complaint immediately.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mona M. Patel', is written over a horizontal line.

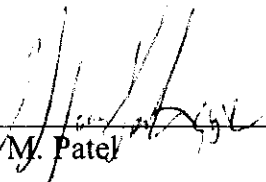
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Dated: February 23, 2005

CERTIFICATE OF SERVICE

I, Mona M. Patel, hereby certify that on this 23rd day of February, 2005, I caused the within Plaintiffs' Opposition to Defendant's Motion for a Second Extension of Time to be served upon the defendant in this action by causing a copy thereof to be delivered first-class mail, postage prepaid, to defendant's counsel of record, Jolynn M. Lussier, Fish & Richardson P.C., 225 Franklin Street, Boston, Massachusetts 02110.



Mona M. Patel

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